

U.S. Patent Application Serial No. 10/658,209
Amendment and Response dated December 14, 2007
Reply to Office Action mailed September 14, 2007

REMARKS

As stated in the previous response, the Applicants request that the Examiner acknowledge the formal drawings filed on December 5, 2003 as acceptable. The final Office Action incorrectly objected to the informal drawings submitted with the application on September 10, 2003.

Claims 1-4, 6-9, 11, 12, 15-25, 27-30, 32, 33, 35-48, 50, 51, 53-62, 65 and 67-71 are pending. Claims 1, 22, 44 and 60 are independent. Applicant notes with appreciation the allowance of claims 15-21, 35-43, 53-62, 65 and 67-70. Applicant also notes with appreciation the allowance of dependent claims 6, 7, 47 and 48 if rewritten in independent form to include the limitations of the base claim and any intervening claims.

Claim Objections and Rejection Under 35 U.S.C. § 112, second paragraph

The Office Action states that claims 1-4, 6-9, 11, 12, 22, 25, 27-30 and 33 are objected to since the relationship between the annunciating steps and the displaying step is unclear. Applicant respectfully submits that the claims are clear as currently written. Applicant respectfully directs the Examiner's attention to paragraph [0027] of the application which discloses an exemplary blood glucose meter 100 having a liquid crystal display (LCD) or other type of display device 160 for displaying data within the blood glucose meter 100. Alternatively, the meter 100 can annunciate blood glucose values and other information audibly via a speech processing device and speaker. Claim 1 as written recites annunciating a level (e.g., indicating the level to the user audibly or via a display) such as an average medical data level, a first medical data level or a second medical data level following respective ones of calculating the average medical data level, receiving a user input to annunciate the first medical data level, and receiving a user input to annunciate the second medical data level. Claim 1 as written also recites displaying the average medical data level and the constituent values in a recited manner. To amend the annunciating steps in claim 1 to recite only

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displaying is deemed by Applicant to be unduly limiting. Similar reasoning applies to independent claim 22 as currently written.

In the Office Action, claim 71 is objected to for lacking antecedent basis for the n time periods. Applicant has amended claim 71 to overcome the objection.

In reviewing claim 1, Applicant has also amended claim 1 to provide antecedent basis for constituent values.

Claim Rejections Under 35 U.S.C. §§ 102(e) and (103(a))

Claims 1-3, 22-24 and 44 are rejected under 35 U.S.C. §102(e) as anticipated by Causey III et al. (U.S. Patent No. 6,558,320). Claims 4, 8, 9, 11, 12, 25, 29, 30, 32, 33, 45, 46, 50 and 51 are rejected under 35 U.S.C. §103(a) as obvious over Causey III. Applicant respectfully requests withdrawal of these grounds for rejection.

The Office Action refers to text at column 11, line 6-8 of Causey III to purportedly teach scrolling through a display sequence that includes individual values for multiple glucose measurements, and therefore to purportedly anticipate announcing an average medical data level or a constituent value in a sequence as recited in independent claims 1, 22 and 44. The Applicant disagrees with this characterization.

The text at column 10, line 61 through column 11, line 11 of Causey III discusses a PDA 10 that displays the results of a measurement received from a sensor and information that includes, but is not limited to, trending information of a characteristic such as rate of change of glucose, graphs of historical data, average characteristic levels, or the like. Calibrated data using results from a characteristic meter that receives readings from a test strip interface can be displayed to provide the user with updated trend and glucose level data. Alternative embodiments include the ability to scroll through the data.

The Examiner clearly has not made out a proper rejection under 35 U.S.C. §102(e) since he fails to show in Causey III the teaching of at least a display screen having a first area for displaying one of the average medical data level and constituent values, and a second area configured to have n indicators corresponding to respective n stored medical data levels. The Examiner, therefore, resorts to an obviousness rejection under 35 U.S.C. §103(a) stating that

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it would have been obvious to modify Causey III to display an indicator to identify the data as claimed. We disagree. There is nothing in Causey III that teaches or suggests a display having the first and second areas as claimed.

The rejections to claims 27 and 28 are believed to be overcome herein by amending them to read that the processing device is “programmed” to perform the recited functions as opposed to being “programmable” to perform these functions. Similar amendments were made to claims 22, 25, 29, 30, 32 and 33.

With regard to the 35 U.S.C. §103(a) rejections of dependent claims 4, 8, 9, 11, 12, 25, 29, 30, 32, 33, 45, 46, 50 and 51, Applicant submits that Causey III fails to teach or suggest at least a display having the first and second areas as claimed in their corresponding independent claims 1, 22 and 44 for reasons stated above. With regard to the Examiner’s characterization of claim 11, Applicant disagrees. The flashing of indicators corresponding to a particular medical level is an advantage over prior systems described on page 2 of the application in paragraph 8 which states that “it is not always clear to a patient as to which values are the constituent values of a particular average.” As described in paragraph 38 of the instant application, indicator blocks 310, 320 and 330 exemplifying the recited n indicators in the second area are flashed to indicate which constituent values are currently being displayed. Finally, regarding claim 12, the Examiner has not set forth a proper rejection under 35 U.S.C. §102 or §103 to show that Causey III teaches or suggests the recited display screen in the independent claim 1 let alone a third area for displaying data recited in dependent claim 12.

Conclusion

In view of the arguments set forth above, Applicants submit that the present application is in condition for allowance and would appreciate early notification of the same.

Invitation for a telephone interview

The Examiner is invited to call the undersigned at (202) 659-9076 if further issues remain with allowance of this case.

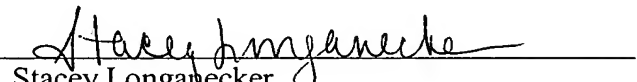
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Deposit Account Authorization

Although no fee is believed due by submission of this paper, authorization is hereby made to charge any fees due or outstanding, or credit any overpayment, to Deposit Account No. **18-2220** (Order No. 45716).

Respectfully Submitted,

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